

MONTANA LEGISLATIVE HISTORY

Chapter 397 19 97

Bill H 193 S \_\_\_\_\_ Original bill & history C

H. Committee on State Admin.

Hearing Date(s) Jan 12 ☒ C

Jan 28 ☒ C

\_\_\_\_\_ C

\_\_\_\_\_ C

Date Out \_\_\_\_\_ C

S. Committee on State Admin.

Hearing Date(s) Mar 06 ☒ C

Mar 14 ☒ C

\_\_\_\_\_ C

\_\_\_\_\_ C

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Did this bill originate in an interim committee? Yes No

Committee \_\_\_\_\_

Report \_\_\_\_\_

## 1997 LEGISLATIVE HISTORY

The 1997 Montana Legislature has dramatically changed the nature of the legislative minutes. Specifically, the minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are somewhat fuller in content. Exhibits available from the State Law Library (which may include written statements, attendant information, roll call votes, roll call attendance, a list of public members present, specific action taken on legislative bills, etc.) are included with this request. For information on other exhibits, contact the Montana Historical Society Archives at 444-4774. Exhibits may also be purchased on a CD-ROM from the Montana Legislative Council (444-3064).

Just as in the 1995 legislative session, the House and Senate hearings were recorded. The Historical Society is the depository for the tapes. For information on accessing the tapes, call the archives at 444-4774.

If you have concerns over the format of the 1997 legislative minutes, it is suggested that you contact your state legislators.

COST-EFFECTIVE, AND BASED ON VALUE THROUGHOUT THE STATE  
EDUCATIONAL SYSTEMS

|      |                                            |    |   |
|------|--------------------------------------------|----|---|
| 1/09 | INTRODUCED                                 |    |   |
| 1/09 | FIRST READING                              |    |   |
| 1/09 | REFERRED TO EDUCATION & CULTURAL RESOURCES |    |   |
| 1/09 | FISCAL NOTE REQUESTED                      |    |   |
| 1/15 | HEARING                                    |    |   |
| 1/15 | FISCAL NOTE RECEIVED                       |    |   |
| 1/16 | FISCAL NOTE PRINTED                        |    |   |
| 1/20 | COMMITTEE REPORT—BILL PASSED               |    |   |
| 1/21 | 2ND READING PASSED                         | 96 | 3 |
| 1/22 | 3RD READING PASSED                         | 97 | 2 |
|      | TRANSMITTED TO SENATE                      |    |   |
| 1/23 | FIRST READING                              |    |   |
| 1/23 | REFERRED TO EDUCATION & CULTURAL RESOURCES |    |   |
| 2/12 | HEARING                                    |    |   |
| 3/07 | TABLED IN COMMITTEE                        |    |   |
|      | DIED IN COMMITTEE                          |    |   |

HB 193      INTRODUCED BY H.S. HANSON      *LC0915 DRAFTER: PETESCH*

CLARIFY THE AUTHORITY OF THE LEGISLATIVE AUDITOR TO ACCESS  
CERTAIN TRANSACTIONS BETWEEN PUBLIC ENTITIES AND PRIVATE  
FOUNDATIONS OR ORGANIZATIONS SUPPORTING THE UNIVERSITY  
SYSTEM IN ORDER TO ENSURE COMPLIANCE WITH CONSTITUTIONAL  
REQUIREMENTS

|      |                                            |    |    |
|------|--------------------------------------------|----|----|
| 1/09 | INTRODUCED                                 |    |    |
| 1/09 | FIRST READING                              |    |    |
| 1/09 | REFERRED TO STATE ADMINISTRATION           |    |    |
| 1/09 | FISCAL NOTE REQUESTED                      |    |    |
| 1/14 | FISCAL NOTE RECEIVED                       |    |    |
| 1/15 | FISCAL NOTE PRINTED                        |    |    |
| 1/17 | HEARING                                    |    |    |
| 1/29 | COMMITTEE REPORT—BILL PASSED AS AMENDED    |    |    |
| 2/01 | 2ND READING PASSED                         | 80 | 17 |
| 2/03 | 3RD READING PASSED                         | 82 | 17 |
|      | TRANSMITTED TO SENATE                      |    |    |
| 2/04 | FIRST READING                              |    |    |
| 2/04 | REFERRED TO STATE ADMINISTRATION           |    |    |
| 3/06 | HEARING                                    |    |    |
| 3/17 | COMMITTEE REPORT—BILL CONCURRED AS AMENDED |    |    |
| 3/20 | 2ND READING CONCURRED AS AMENDED           | 50 | 0  |
| 3/21 | 3RD READING CONCURRED                      | 48 | 1  |
|      | RETURNED TO HOUSE WITH AMENDMENTS          |    |    |
| 4/09 | 2ND READING AMENDMENTS CONCURRED           | 96 | 3  |
| 4/11 | 3RD READING CONCURRED AS AMENDED           | 93 | 3  |
| 4/15 | SIGNED BY SPEAKER                          |    |    |
| 4/17 | SIGNED BY PRESIDENT                        |    |    |
| 4/18 | TRANSMITTED TO GOVERNOR                    |    |    |
| 4/24 | SIGNED BY GOVERNOR                         |    |    |
|      | CHAPTER NUMBER 377                         |    |    |
|      | EFFECTIVE DATE: 07/01/97                   |    |    |

HB 194      INTRODUCED BY HAGENER, ET AL.      *LC0904 DRAFTER: KURTZ*

ESTABLISH THE MONTANA HISTORIC AND CULTURAL PRESERVATION  
FUND

|      |               |
|------|---------------|
| 1/09 | INTRODUCED    |
| 1/09 | FIRST READING |

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0193, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

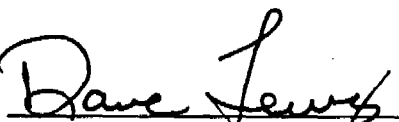
An act clarifying the authority of the legislative auditor to access certain transactions between public entities and private foundations in order to ensure compliance with constitutional requirements; amending sections 5-13-304, and 18-1-118, MCA; and providing an effective date.

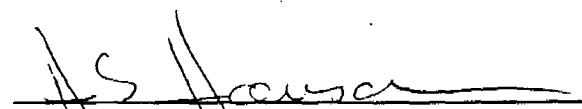
ASSUMPTIONS:

1. Audit period covers the two-year biennium since the last audit.
2. Audits will be privatized and performed under third party contract.
3. Legislative Audit Division prepares bid specifications; awarding of bid through the Legislative Audit Committee.
4. Historical administrative expenses associated with contract audit liaison, per contract, are estimated at \$800.
5. Estimated number of affiliated private organizations is twenty-two.
6. One-half of the twenty-two organizations will be audited each fiscal year of the biennium.
7. If the proposed legislation were to be enacted, the private foundations would pay the contract audit fees.

FISCAL IMPACT:

|                                 | <u>FY98</u><br><u>Difference</u> | <u>FY99</u><br><u>Difference</u> |
|---------------------------------|----------------------------------|----------------------------------|
| <u>Expenditures:</u>            |                                  |                                  |
| Operating Expenses              | 8,800                            | 8,800                            |
| <u>Funding:</u>                 |                                  |                                  |
| State Special Revenue Fund (02) | 8,800                            | 8,800                            |

 1-14-97  
DAVE LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

  
H.S. "SONNY" HANSON, PRIMARY SPONSOR      DATE  
Fiscal Note for HB0193, as introduced

HB 193

HOUSE STATE ADMINISTRATION COMMITTEE

January 17, 1997

Page 2 of 4

Sam Prestipino, State Employee, Department of Transportation.  
{Tape: 1; Side: a; Approx. Time Count: 14.1; Comments: None.}

Jim Petter, Chief Investments Officer, The Board of Investments.  
Board Member, State Employee Group Benefit Advisory Counsel.  
{Tape: 1; Side: a; Approx. Time Count: 15.5; Comments: None.}

Opponents:

Shirley Schiller, State Employee.  
{Tape: 1; Side: a; Approx. Time Count: 17.4; Comments: None.}

Leo Berry, Attorney; Browning, Kaleczyc, Berry, and Hoven PC.  
{Tape: 1; Side: a; Approx. Time Count: 27.5; Comments: None.}

Informational Testimony:

Jim Turcotte.  
{Tape: 1; Side: a; Approx. Time Count: 31.8; Comments: None.}

Jerry Wells, State Employee.  
{Tape: 1; Side: a; Approx. Time Count: 35.5; Comments: None.}

Questions From Committee And Responses:

{Tape: 1; Side: b; Approx. Time Count: .1 (1/b) through 2.9  
(2/a); Comments: None.}

Closing by Sponsor: REP. JOHNSON closes.  
{Tape: 2; Side: a; Approx. Time Count: 2.9; Comments: None.}

HEARING ON HB 193

Sponsor: REP. HANSON, H.D. 09, EXHIBIT 1-2.  
{Tape: 2; Side: a; Approx. Time Count: 7.4; Comments: None.}

Proponents: None.  
{Tape: 2; Side: a; Approx. Time Count: 16; Comments: None.}

Opponents:

Richard Crofts, Interim Commissioner of Higher Education,  
EXHIBIT 3-8.  
{Tape: 2; Side: a; Approx. Time Count: 16.8; Comments: None.}

Informational Testimony:

Steve Browning, Attorney; Browning, Kaleczyc, Berry, and Hoven  
PC.  
{Tape: 2; Side: a; Approx. Time Count: 29; Comments: None.}

Opponents:

Nancy Davidson, President, Board of Trustees of University of  
Montana Foundation.  
{Tape: 2; Side: a; Approx. Time Count: 34.4; Comments: None.}

John Morrison Jr., Board of The Montana State University  
Foundation, EXHIBIT 9.

{Tape: 2; Side: b; Approx. Time Count: 2.8; Comments: None.}

Informational Testimony:

Russ Ritter, Washington Corporation.

{Tape: 2; Side: b; Approx. Time Count: 5.6; Comments: None.}

Opponents:

Larry Marlin, Executive Director, University of Montana Foundation, EXHIBIT 10/11.

{Tape: 2; Side: b; Approx. Time Count: 9.8; Comments: None.}

LeRoy Shramm, Chief Legal Counsel, Montana University System, EXHIBIT 12.

{Tape: 2; Side: b; Approx. Time Count: 14.6; Comments: None.}

Informational Testimony:

Tory Hunthausen, Legal Audit Division.

{Tape: 2; Side: b; Approx. Time Count: 27.6; Comments: None.}

Questions From Committee Members and Responses:

{Tape: 2; Side: b; Approx. Time Count: 29.2 (2/b) through 2.1 (3/a); Comments: None.}

Closing by Sponsor: REP. HANSON closes.

{Tape: 3; Side: a; Approx. Time Count: 2.1; Comments: None.}

HEARING ON HB 89

Sponsor: REP. DEB KOTTEL, H.D. 45.

{Tape: 3; Side: a; Approx. Time Count: 6.1; Comments: None.}

Proponents:

Tony Herbert, Administrator, Information Services Division, Department of Administration, EXHIBIT 13.

{Tape: 3; Side: a; Approx. Time Count: 10; Comments: None.}

Questions From Committee Members and Responses:

{Tape: 3; Side: a; Approx. Time Count: 12.8 through 21.9; Comments: None.}

Closing by Sponsor: REP. KOTTEL closes.

{Tape: 3; Side: a; Approx. Time Count: 21.9; Comments: None.}

Delegate proposal, Vol. I 307.

Final consideration, Trans. 2469, 2470.

**Section 10. Local government debt.** The legislature shall by law its debts of counties, cities, towns, and all other local governmental entities.

**Cross-References**

Local government, Art. XI, Mont. Const.

Local government financial administration taxation, Title 7, ch. 6.

Local government debt management, Title 7, ch. 6.

Limit on bonded indebtedness of urban transportation district, 7-14-236.

School finance, Title 20, ch. 9.

Limit on bonded indebtedness of school district, 20-9-406.

Limit on bonded indebtedness of community college district, 20-15-404.

University system finance, Title 20, ch. 25, § 4.

Debt limits of irrigation district, 85-7-2001.

Debt limits of drainage district, 85-8-501.

Text as adopted, Vol. II 1098.

**Section 11. Use of loan proceeds.** All money borrowed by or on behalf of the state or any county, city, town, or other local governmental entity shall be used only for purposes specified in the authorizing law.

**Cross-References**

Strict accountability of public money, Art. I, sec. 12, Mont. Const.

Local Government, Title 7.

Local government finance and taxation, Title 7, ch. 6.

Local government debt management, Title 7, ch. 6.

Special improvement districts, Title 7, ch. 6.

State Finance, Title 17.

Public bond issues, Title 17, ch. 5.

Authority of Department of Administration to issue bonds, 18-2-105.

School finance, Title 20, ch. 9.

Community college district financing, Title 15, parts 3 and 4.

University system finance, Title 20, ch. 25, § 4.

Issuance of bonds for university purposes, 25-402.

Issuance of bonds for public library purposes, 22-1-304.

Issuance of bonds for airport purposes, 10-402, 67-11-303.

Issuance of solid waste management system bonds, 75-10-112.

Issuance of bonds under Open-Space Land Voluntary Conservation Easement Act, 6-109.

Debt limits of conservancy district, 85-9-406.

**Constitutional Convention Transcript Cross-References**

Adoption, Trans. 2937, 2938.

Committee report, Vol. II 583, 586, 595, 946, 949, 950, 952, 1066.

Cross-references, 1889 and 1972 Constitutions, Vol. II 583.

Debate — committee report, Trans. 1509 through 1516.

Debate — style and drafting report, Trans. 2244, 2245, 2926 through 2928.

Final consideration, Trans. 2470 through 2472.

Text as adopted, Vol. II 1098.

Issuance of conservation district bonds, 76-15-506.

Montana Agricultural Loan Authority Act, Title 80, ch. 12.

Renewable resource grant and loan program, Title 85, ch. 1, part 6.

Issuance of renewable resource development bonds, Title 90, ch. 2, part 1.

Issuance of bonds for industrial development projects, Title 90, ch. 5, part 1.

Issuance of bonds under Housing Act of 1975, 90-6-111 through 90-6-126.

**Constitutional Convention Transcript Cross-References**

Adoption, Trans. 2937, 2938.

Committee report, Vol. II 583, 586, 595, 946, 949, 950, 952, 1066.

Cross-references, 1889 and 1972 Constitutions, Vol. II 583.

Debate — committee report, Trans. 1376, 1516.

Debate — style and drafting report, Trans. 2245, 2926 through 2928.

Final consideration, Trans. 2472, 2473.

Text as adopted, Vol. II 1098.

EXHIBIT 7 (pg. 1)

DATE 1-17-97

HB 193

**Section 12. Strict accountability.** The legislature shall by law insure strict accountability of all revenue received and money spent by the state and counties, cities, towns, and all other local governmental entities.

**Cross-References**

Use of loan proceeds, Art. VIII, sec. 11, Mont. Const.

Investment of public funds, Art. VIII, sec. 13, Mont. Const.

Prohibited payments, Art. VIII, sec. 14, Mont. Const.

Audits of political subdivisions, Title 2, ch. 7, part 5.

Director of Department of Administration as ex officio State Treasurer, 2-15-1002.

Board of Examiners, 2-15-1007.

Board of Investments, 2-15-1808.

Local Government, Title 7.

Taxation, Title 15.

State Finance, Title 17.

Public Contracts, Title 18.

School finance, Title 20, ch. 9.

Community college finance, Title 20, ch. 15, parts 3 and 4.

University system finance, Title 20, ch. 25, part 4.

**Constitutional Convention Transcript Cross-References**

Adoption, Trans. 2937, 2938.

Committee report, Vol. II 581, 582, 586, 595, 596, 946, 949, 950, 952, 1066.

Cross-references, 1889 and 1972 Constitutions, Vol. II 581.

Debate — committee report, Trans. 921, 924, 1001, 1002, 1376, 1516, 1517.

Debate — style and drafting report, Trans. 2245, 2926 through 2928.

Delegate proposal, Vol. I 307.

Final consideration, Trans. 2473, 2474.

Text as adopted, Vol. II 1098.

**Section 13. Investment of public funds and public retirement system assets.** (1) The legislature shall provide for a unified investment program for public funds and public retirement system assets and provide rules therefor, including supervision of investment of surplus funds of all counties, cities, towns, and other local governmental entities. Each fund forming a part of the unified investment program shall be separately identified. Except as provided in subsection (3), no public funds shall be invested in private corporate capital stock. The investment program shall be audited at least annually and a report thereof submitted to the governor and legislature.

(2) The public school fund and the permanent funds of the Montana university system and all other state institutions of learning shall be safely and conservatively invested in:

(a) Public securities of the state, its subdivisions, local government units, and districts within the state, or

(b) Bonds of the United States or other securities fully guaranteed as to principal and interest by the United States, or

(c) Such other safe investments bearing a fixed rate of interest as may be provided by law.

(3) Investment of public retirement system assets shall be managed in a fiduciary capacity in the same manner that a prudent expert acting in a fiduciary capacity and familiar with the circumstances would use in the conduct of an enterprise of a similar character with similar aims. Public retirement system assets may be invested in private corporate capital stock.

**Cross-References**

Strict accountability of public money, Art. VIII, sec. 12, Mont. Const.

Board of Investments, 2-15-1808.

Investment of county or county high school money, 7-6-2701, 7-6-2802, 7-7-2112, 20-9-213.

Investment of coal severance tax trust fund, 15-35-108.

State Finance, Title 17.

Unified investment program, Title 17, ch. 6, part 2.

Montana In-State Investment Act, Title 17, ch. 6, part 3.

Investment of funds in agency social security contribution account, 19-1-602.

Investment of funds under Public Employees' Retirement System, 19-2-504.

Attachment of property under control of trustees, 27-18-406.

Governmental code of fair practices — application to school districts, 49-3-102.

Issuance of coal-mining permit to trustees, 77-3-321.

**Constitutional Convention Transcript Cross-References**

Adoption, Trans. 2939, 2940.

Committee report, Vol. II 719, 731, 735, 994, 998, 1002, 1004, 1070.

Cross-references, 1889 and 1972 Constitutions, Vol. II 757.

Debate — committee report, Trans. 1971, 1977, 2046 through 2048, 2050, 2060 through 2062, 2103, 2165.

Debate — style and drafting report, Trans. 2576, 2928.

Delegate proposals, Vol. I 122, 340.

Final consideration, Trans. 2674, 2675.

Text as adopted, Vol. II 1100.

**Section 9. Boards of education.** (1) There is a state board of education composed of the board of regents of higher education and the board of public education. It is responsible for long-range planning, and for coordinating and evaluating policies and programs for the state's educational systems. It shall submit unified budget requests. A tie vote at any meeting may be broken by the governor, who is an ex officio member of each component board.

(2) (a) The government and control of the Montana university system is vested in a board of regents of higher education which shall have full power, responsibility, and authority to supervise, coordinate, manage and control the Montana university system and shall supervise and coordinate other public educational institutions assigned by law.

(b) The board consists of seven members appointed by the governor, and confirmed by the senate, to overlapping terms, as provided by law. The governor and superintendent of public instruction are ex officio non-voting members of the board.

(c) The board shall appoint a commissioner of higher education and prescribe his term and duties.

(d) The funds and appropriations under the control of the board of regents are subject to the same audit provisions as are all other state funds.

(3) (a) There is a board of public education to exercise general supervision over the public school system and such other public educational institutions as may be assigned by law. Other duties of the board shall be provided by law.

(b) The board consists of seven members appointed by the governor, and confirmed by the senate, to overlapping terms as provided by law. The governor, commissioner of higher education and state superintendent of public instruction shall be ex officio non-voting members of the board.

#### Cross-References

Governor, Superintendent of Public Instruction as executive officers, Art. VI, sec. 1, Mont. Const.

Board of Regents exempt from Montana Administrative Procedure Act, 2-4-102.

Governor as member of State Board of Education, 2-15-201.

Superintendent of Public Instruction, 2-15-701; Title 20, ch. 3, part 1.

State Board of Education, 2-15-1501.

Board of Regents, 2-15-1505.

Commissioner of Higher Education, 2-15-1506.

Appointments to Boards, 2-15-1508.

Agencies, boards, commissions, and councils allocated to State Board of Education, 2-15-1511 through 2-15-1520.

Application of portions of state employee classification requirements to Board of Regents and Board of Public Education, 2-18-103.

Approval of gubernatorial appointments, Title 5, ch. 5, part 3.

The Legislative Audit Act, Title 5, ch. 13.

Bonds for construction of physical education building at Montana College of Mineral Science and Technology, 17-5-421.

Submission of university system budget, 17-2-112.

EXHIBIT 2 (pg. 2)

DATE 1-12

EDUCATION AND PUBLIC LANDS

Art. X,

HB 193

Construction of buildings by Board of Regents without legislative approval, 18-2-102.

University system buildings exempt from certain preconstruction requirements, 18-2-103.

Education, Title 20.

State boards and commissions generally, Title 20, ch. 2.

University system, Title 20, ch. 25.

Charges for tuition — waivers, 20-25-421.

Board of Regents may contract with local governments for establishment and operation of joint library services, 22-1-403.

**Constitutional Convention Transcript Cross-References**

Adoption, Trans. 2939, 2940.

**Section 10. State university funds.** The funds of the Montana university system and of all other state institutions of learning, from whatever source accruing, shall forever remain inviolate and sacred to the purpose for which they were dedicated. The various funds shall be respectively invested under such regulations as may be provided by law, and shall be guaranteed the state against loss or diversion. The interest from such invested funds together with the rent from leased lands or properties, shall be devoted to maintenance and perpetuation of the respective institutions.

#### Cross-References

The Legislative Audit Act, Title 5, ch. 13.

University funds within treasury, 17-2-102.

Fiscal year and financial reports of university units, 17-2-110.

Endowments to university system, Title 17, ch. 3, part 10.

University funds as separate investment fund, 17-6-203.

University finance, Title 20, ch. 25, part 4.

**Constitutional Convention Transcript Cross-References**

Adoption, Trans. 2939, 2940.

Committee report, Vol. II 719, 720, through 740, 994, 995, 998, 999, 1002, 1005, 1070, 1071.

Cross-references, 1889 and 1972 Constitutions, Vol. II 757.

Debate — committee report, Trans. 862, 864, 873, 2046, 2049 through 2091, through 2142, 2159 through 2174, 2894.

Debate — style and drafting report, Trans. 2576 through 2593, 2928.

Delegate proposals, Vol. I 196, 197, 256, 282, 283, 287, 324.

Final consideration, Trans. 2675, 2676. Text as adopted, Vol. II 1100.

Committee report, Vol. II 720, 740, 999, 1002, 1005, 1071.

Cross-references, 1889 and 1972 Constitutions, Vol. II 757.

Debate — committee report, Trans. 2142.

Debate — style and drafting report, Trans. 2593, 2594, 2928.

Delegate proposals, Vol. I 170, 196, 283.

Final consideration, Trans. 2676, 2677. Text as adopted, Vol. II 1100, 1101.

**Section 11. Public land trust, disposition.** (1) All lands of the state that have been or may be granted by congress, or acquired by gift or grant or devise from any person or corporation, shall be public lands of the state. They shall be held in trust for the people, to be disposed of as hereafter provided for the respective purposes for which they have been or may be granted, donated or devised.

(2) No such land or any estate or interest therein shall ever be disposed except in pursuance of general laws providing for such disposition, or until full market value of the estate or interest disposed of, to be ascertained in such manner as may be provided by law, has been paid or safely secured to the state.

(3) No land which the state holds by grant from the United States will prescribe the manner of disposal and minimum price shall be disposed except in the manner and for at least the price prescribed without the consent of the United States.



**Estimation of the administrative cost involved with contract audit.**

EXHIBIT 2  
DATE 1-17-97  
HB 193

**Initial Bid Process**

|                            |     |                    |
|----------------------------|-----|--------------------|
| Prepare Bid Specifications | 2.5 | * Hours reflect an |
| PreQualify Bidders         | 0.5 | average over four  |
| Bid Package Prep and Mail  | 0.5 | cycles             |
| Answer Bidder Questions    | 1   |                    |

**Bid Evaluation and Contract**

|                                           |     |             |
|-------------------------------------------|-----|-------------|
| Evaluation Bids                           | 1.5 | * see above |
| LAC package, presentation and award       | 0.5 | * see above |
| Notifications                             | 0.5 | * see above |
| Contract design and approval & signatures | 2   | each cycle  |

**Services to Contractors**

|                                     |     |
|-------------------------------------|-----|
| Information and computer processing | 1   |
| Report Process                      | 0.5 |
| Report printing process             | 0.5 |
| Bill payments/billing/holdback/etc  | 2   |

**Legislative Audit Committee**

|                                    |     |
|------------------------------------|-----|
| Notifications/ Agency and auditor  | 1   |
| Hearings process and presentations | 1   |
| Followup questions                 | 0.5 |

**Quality Control**

|                    |     |
|--------------------|-----|
| Report Inspection  | 2   |
| Work Paper Review  | 3.5 |
| Problem resolution | 0.5 |

|                         |        |
|-------------------------|--------|
| Total Hours             | 21.5   |
| Average Billing Rate    | 37.04  |
| Estimated Contract Cost | 796.36 |



MONTANA UNIVERSITY SYSTEM  
OFFICE OF COMMISSIONER OF HIGHER EDUCATION

2500 BROADWAY ♦ PO BOX 203101 ♦ HELENA, MONTANA 59620-3101 ♦ (406)444-6570 ♦ FAX (406)444-1469

**MEMORANDUM**

EXHIBIT 3  
DATE 1-17-97  
HB 193

**TO:** State Administration Committee  
Montana House of Representatives

**FROM:** Richard A. Crofts *Richard A. Crofts*  
Interim Commissioner of Higher Education

**DATE:** January 17, 1997

**SUBJECT:** House Bill 193

As I indicated to you in my testimony this morning, House Bill 193 has evoked considerable concern among members of the foundations created to support the campuses of the Montana University System. Because of the tightness of the schedule, many individuals who wanted to appear before the committee to offer testimony were unable to do so. Some of those persons have submitted letters for the committee and copies of those letter are attached to this memo. I anticipate that others may be received in the next day or two and I will forward those on to the committee.

We appreciate your consideration of the views of these business persons who provide energetic and enthusiastic support for our campuses. Their financial contributions permit us to provide programs and services for students which the current level of state support for public higher education would not allow.

Enc.

EXHIBIT 4  
DATE 1-17-97  
HB 193



## Blue Rock Products Company

P.O. Box 1708 — 501 9th Ave. N.E.

Sidney, Montana 59270-1708

Phone: (406) 482-3403

### SALES CENTERS:

Plentywood  
Montana

Glasgow  
Montana

Miles City  
Montana

Williston  
North Dakota

January 16, 1997

All Members, House State Administration Committee  
Montana House of Representatives  
Capitol Station  
Helena, MT 59620

Gentlemen:

It is my understanding that House Bill 193 has been introduced and that the hearing of the bill will take place Friday, January 17, 1997. I rise in opposition to this bill and encourage each of you to vote against House Bill 193.

The rationale behind this bill is inappropriate and potentially dangerous. As a member of the University of Montana Foundation's Audit Committee, I am very concerned about protecting the confidentiality of our University donors and financial contributors. This bill would definitely jeopardize and compromise the privacy of donors and contributors.

Secondly, the Audit Committee of the University of Montana Foundation attests to the accuracy and integrity of the Foundation's financial statements by employing a very reputable outside and independent accounting firm to perform annual certified audits. The outside auditors assure themselves and the members of the Audit Committee of the fairness of the financial statements, their conformity with generally accepted accounting principles, and the consistency with which the accounting principles have been applied from year to year. These financial statements are thoroughly examined.

House Bill 193 would only serve to duplicate the effort and, in my opinion, be wasting the taxpayers' dollar.

I would appreciate you voting against House Bill 193.

Thank you for your consideration.

Sincerely,

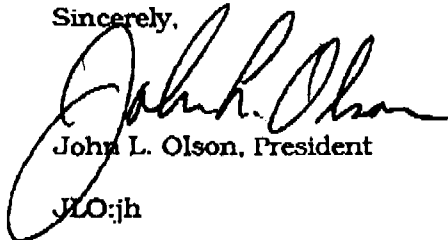
  
John L. Olson, President  
JLO:jh



EXHIBIT 5  
DATE 1-17-97  
HB 193

Marilyn & Keith Peterson  
P.O. Box 350; Seeley Lake, Montana 59868  
(406) 677-FISH; in Seattle: (206) 782-4929

January 16, 1997

Office of the Commissioner of Higher Education  
State of Montana  
Helena, Montana

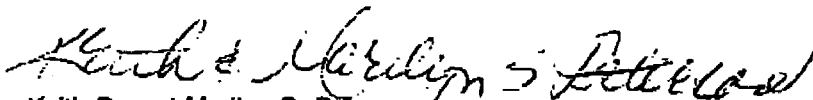
Re: House Bill 193

Tomorrow morning you will be meeting to hear testimony on House Bill 193. After reading through each section as stated, we wish to make the following commentary:

1. While in general, the bill does offer power to supervise and audit state agencies and report violations, it also includes authority to audit records of the recipient organizations, many of whom already are audited by independent audit firms who follow the FASB rules. In these cases, such as the University of Montana Foundation, the auditors determine that the Foundation direct gifts made by private donors in the manner in which donors designate.
2. It also seems to us that a great many people will be conducting these duties and will have access to many records of contracting entities and foundations. It has been in our experience that many gifts given to the University of Montana Foundation have been done so with anonymity and confidentiality requested. As the donor always has the power to participate in the designated gift dispersal, it would appear that the donor would not worry that their money or gift is being redirected or mismanaged.

We would be happy to visit with you further if you have any questions about our feeling on House Bill No. 193.

Thank you for your attention.

  
Keith D. and Marilyn S. Peterson

cc: Doug Mood

EXHIBIT 6DATE 1-17-97HB 193

# I N T E R T E C

619 S. W. Higgins, Suite C • Missoula, Montana 59803 • 406/721-2720

Robert J. Kelly

President  
January 16, 1997

Fax to 406-444-1469

Care of Commissioner of Higher Education

RE: House Bill 193

Dear Representatives:

As an Alumni of the University of Montana, a former President of the University of Montana Foundation and a Montana taxpayer, I request that you please consider a no pass for HB 193.

In a time when private donations are becoming even more important to assist our higher education system, any action that may impede the private donor from considering a donation must be prevented.

The Foundation is audited routinely by an independent firm to assure that the donors' gifts are managed in a way the donors requested.

The confidentiality of the donors is of utmost importance and must be preserved as a matter of policy and not of law. The independent auditors upon completion of their regular audit could possibly provide under separate cover to the University their determination of any monies received from the University for services provided by the Foundation.



Bob Kelly

RJK/kl



EXHIBIT 7  
DATE 1-17-97  
HB 193

January 16, 1997

The Honorable Matt Denny, Chair  
Legislative Committee on State Administration  
State Capital - Room 420  
Helena, Montana 59620

Dear Representative Denny:

I am writing with respect to House Bill 193 which I understand will be under consideration by your committee on January 17, 1997.

I presently serve as President of the Board of Directors of The Foundation of Montana State University-Billings. In addition to having served in numerous volunteer capacities at my alma mater, I also contribute to Billings and the State's commonwealth through membership on the Metra Park Board of Directors and as employer of 40 people in Billings, Great Falls, and Missoula. Because of the pressures of successfully operating my business, I am not able to appear in person to offer the comments herein.

Should House Bill 193 be enacted, dire consequences would beset the Foundation of Montana State University-Billings. I volunteer my time and contribute generously of my means because, to an increasing extent, they are necessary to attract and educate the brightest students. Our Foundation provides thoughtfully chosen operational expenditures beyond the legislated budget which lift the University to a higher arena, a venue of accelerated achievement both collective and individual. Because of private donations, teachers teach more powerfully, students learn more efficiently and research proceeds more quickly.

While unsure of the extent of a legislative audit, as compared to the annual audit of our accounts and operations conducted by Certified Public Accounts following FASB standards, I am sure that my Foundation complies with extant reporting regulations. Several of the FASB "tests" ensure our compliance with contracts, and donor restrictions. Further, the Foundation of Montana State University-Billings exceeds reporting regulations by voluntarily providing a copy of the CPA's report and opinions to the Secretary of State.

Say, for example, a legislative auditor wished to examine confidential Foundation giving records. One of my motivations for contributing is my confidence that how much I give to which programs will not become a matter of public record. The same pertains to other charitable causes I support because all of them subscribe to "The Donor Bill of Rights." I am positive that enactment of House Bill 193 would dissuade me and others able to make larger contributions -- many of whom opt to remain anonymous -- from doing so.

It is for these and other reasons that I urge you and your colleagues to act unfavorably on House Bill 193.

Sincerely,

*Bernie Harrington*  
Bernie Harrington  
President

EXHIBIT 8

DATE 1-17-97

HB 193

Charles P. Grenier

**Home**

395 Golf Course Dr.  
Columbia Falls, MT 59912  
Phone: 406/892-2433

**Business**

Plum Creek Timber Company  
PO Box 1990  
Columbia Falls, MT 59912  
Phone: 406/892-6201

Dear State Administration Committee Member,

I am writing to you in opposition of House Bill 193. I cannot make it to Helena in time to testify in person, but wanted to share with you my reasons for opposing HB 193.

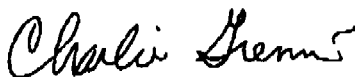
I am the Chairman of the Finance Committee of the University of Montana Foundation and have been involved with the audits of the Foundation's books for the last three years.

We hire an independent auditor (from Missoula) who uses the Federal Accounting Standards Board (FASB) rules for reviewing all of our financial transactions. We do not need a duplicate audit by the State as HB 193 would require. As a private foundation, we manage our investments with fiduciary responsibility and confidentiality as our donors require.

Our donors would be extremely concerned about their confidentiality should the State conduct an audit provide public access which might divulge their individual contributions. As a private foundation, we are held accountable to the wise use of our private contributions; our donors never need to worry about their money being redirected by the State or the legislature.

I would hope you agree and vote "NO" on HB193

Sincerely,



Charles P. Grenier



910 HELENA AVENUE • P.O. BOX 6147 • HELENA, MT 59604 • 406-442-3050 • FAX: 406-442-7862

ENGINEERS  
SCIENTISTS  
SURVEYORS  
PLANNERS

TO: Chairman and Members  
State Administration Committee  
Montana State House of Representative

EXHIBIT 8  
DATE 1-17-97  
HB 193

FROM: John Morrison, Jr. *John H Morrison Jr*  
Board Member, Montana State University Foundation

SUBJECT: House Bill 193

DATE: January 16, 1997

Statement in Opposition to House Bill No. 193

The sole and continuing purpose of the Montana State University Foundation is to provide extramural support on behalf of Montana State University by responding to its needs to the maximum extent of our resources. We solicit both large and small gifts for all types of purposes including scholarships, fellowships, equipment and bricks and mortar.

The Foundation was originally chartered as an independent, tax exempt 501(c)(3) organization in 1946. Copies of our annual report, our independently audited financial statements, and other special purpose printings are publicly available upon request.

We believe provisions of Section 2 of the proposed legislation would significantly inhibit our fund raising efforts. Many of our donors insist on confidentiality, often anonymity, especially those who contribute major gifts. Respecting our donors' wishes and nurturing their continuing interest and support through good stewardship are among the most important of our fiduciary responsibilities.

In concert with the University, the Montana State University Foundation is now concluding the largest capital campaign in the history of either organization, a \$25,000,000 effort that will conclude 20 months ahead of schedule. These are dollars that ***make the difference*** more often than not in maintaining an institutional profile of excellence in instruction, research and creativity, and public service. If authorized, we believe the provisions of House Bill No. 193 would be a serious detriment to our continuing success.

g:\jhm\0116ch.mmo



EXHIBIT 9  
DATE 1-17-97  
HB 193

January 16, 1997

ELMORE & ASSOCIATES, P.C.  
CERTIFIED PUBLIC ACCOUNTANTS • BUSINESS CONSULTANTS

The Honorable Committee Members  
Rep. Matt Denny, Chairman  
State Administration Committee  
Montana Legislature  
Helena, Montana

Re: House Bill No. ~~193~~

Dear Committee Members:

I am writing to provide you with information which I believe is relevant to your consideration of this proposed legislation. I speak to you both as a taxpayer and concerned citizen, as well as a professional in the field of auditing and accounting.

First let me introduce myself. I am a shareholder in the accounting firm of Elmore & Associates, P. C. in Missoula. Our firm has served as the independent auditors of the University of Montana Foundation since 1983. I am the "partner in charge" of the Foundation's audit. Our firm performs audits of numerous governmental, nonprofit and commercial organizations in western Montana and has the largest audit practice in this part of the state. Our nonprofit clients include foundations, social service agencies and membership organizations, many of which receive public funds in one form or another from state and federal sources.

I am opposed to H. B. 193 on several grounds, which I will explain in the following paragraphs.

1. The bill is duplicative and an unnecessary waste of taxpayer dollars

As a taxpayer, I understand and appreciate the need for oversight and accountability in our public agencies, including institutions of higher education. As a taxpayer, I also expect such oversight to be accomplished in a cost-effective manner. In this regard, I believe House Bill 193 is an unnecessary duplication of effort and an inefficient use of taxpayer dollars.

The majority of the nonprofit organizations affected by the bill already have annual audits performed by independent Certified Public Accountants. Requiring the Legislative Auditor or its appointee to perform additional audits seems to be wasteful and duplicative. In an environment where downsizing and outsourcing are the focus of attention, why would you want to duplicate work that has already been done, and at taxpayer expense? Assuming the LAO contracted all of the audits to independent CPAs, you have simply added administrative cost to a process which is already in effect. If the bill merely shifts the audit procurement process from the nonprofit to the LAO, what has been accomplished? If the bill is intended to give the LAO freedom to perform additional audits of nonprofits' records, then the fiscal impact has been significantly underestimated.

If the audit procurement process is carried out in the same way that LAO has historically procured state agency audits, I believe there will be a loss in audit quality as well as an increase in cost, because LAO almost always awards audits to the lowest bidder without adequate consideration of auditor qualifications. Thus, you will have LAO in Helena deciding who audits the U of M Foundation, for example, and then requiring the Foundation to pay for what might well be a substandard audit. And a substandard audit would hardly meet the legislative objective of the bill.

2. The bill's legislative objective is accomplished by existing independent audits.

The apparent purpose of H. B. 193 is to ensure that public funds or property transferred to nonprofit organizations are expended or managed in accordance with applicable laws and regulations. Most of the organizations to which the bill would apply are charitable foundations (not to be confused with "private foundations," which the bill erroneously refers to). They receive the majority of their funds through private gifts, and typically only a small amount of funds or property are received from a public entity. **One of the principal objectives of an independent audit of a charitable foundation is to determine whether the organization used its funds (whether from private donations or a public agency) in accordance with the donor or transferor's intentions.** Thus, I believe existing audits should provide the assurance the bill seeks to obtain.

I believe the bill's legislative objective could be met by having nonprofit organizations who receive public funds or property provide the Legislative Auditor with copies of their annual audit reports. This would give LAO the basis for determining the extent of public funds involved and assurance that such funds or property are administered in accordance with applicable requirements. Most of these entities, by the way, have annual audits rather than biennial audits, thus giving LAO more current information than they would obtain via the proposed legislation. Presumably, if nonprofits wanted to continue having annual audits, they would have to incur the cost in addition to the biennial audit mandated by the proposed legislation.

3. The bill could open to the public the records of private donors in violation of donor intentions and privacy laws.

If the Legislative Auditor's access to nonprofit entities' records were limited to those that directly impacted on transfers from public agencies, the bill might have merit. However, giving LAO unlimited access to private donor records could create serious legal implications for the nonprofit entity.

I assume the intent of the law is simply to ensure that the public funds or property are handled in accordance with applicable state laws and regulations. This could be accomplished by including appropriate audit provisions in contracts between public agencies and nonprofit entities that give LAO access to contract-related records, but not to private donors' records.

Members, State Administration Committee  
Montana Legislature  
January 16, 1997  
Page 3

4. The bill, as currently proposed, would likely result in a loss of private donations.

If private donors knew that a state agency had access to a nonprofit's giving records, one or both of two results is likely to occur: On the one hand, donors may curtail giving because they assume the state has oversight, and therefore financial responsibility, for the nonprofit. If the state is going to fund the entity, why should the donor? On the other hand, the invasion of privacy noted above may turn many potential donors away from giving in the first place. In either case, the result would be a loss of private funding for these organizations. This presumably is a result the state would not want unless it is ready to finance the lost revenue with taxpayer funds.

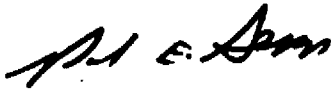
Private giving plays a vital role in meeting many of the social, welfare and educational needs in our state. The benevolence of the private sector is a phenomenon that I believe all of us would not wish to see diminish. The bill, however well-intended, might be perceived as a veiled attempt to give the legislature access to private funds as a means of meeting its own financial responsibilities. As taxpayers and citizens, we would all lose in that event.

In summary, I firmly believe the legislature's goal of obtaining assurance that certain nonprofit organizations are properly handling state funds or property can be accomplished without the costly and potentially damaging effects of House Bill 193. Independent audits currently being performed provide such assurance without the added cost of administrative oversight by the LAO. The privacy of donors would be maintained, the inflow of valuable private funds would be continue, and these organizations would continue to provide the vital financial support to state institutions that might otherwise require taxpayer funds.

I appreciate this opportunity to share my views with the Committee and would be glad to provide any information which you might find useful in this matter.

Very truly yours,

Elmore & Associates, P. C.



Paul E. Sepp, Director  
HB193.WPD

The University of  
**Montana**  
FOUNDATION

EXHIBIT 10  
DATE 1-17-97  
HB 193

Brantly Hall  
Post Office Box 7159  
Missoula, Montana 59807-7159  
(406) 243-2593

Good Morning. I am Larry Morlan, executive director of The University of Montana Foundation in Missoula and I welcome the opportunity to address the House of Representatives' State Administration Committee in opposition to House Bill 193.

There are a number of reasons why I--and the members of our board of trustees, who are elected from among private citizens of this nation, and our staff, who are dedicated to adhering to the interests of donors to The University of Montana--oppose this bill. Chief among them is that it is an unnecessary piece of legislation that will cost additional tax money for the state to enforce.

The University of Montana Foundation is a duly authorized non-profit organization recognized under Internal Revenue Service Code 501 (c)(3). We were granted that designation in 1951. As a 501(c) (3), we are subjected to all the incumbent laws of that code. The Foundation must, for example, file annually an IRS Form 990, which certifies our financial condition, and we must submit to an annual independent audit. The independent auditors who have evaluated our operation for the past eight years is the Missoula firm of Elmore & Associates, a firm widely regarded as the regional leader as an auditor of non-profit organizations. Elmore is diligent in the conduct of their audit, which is done in accordance with Federal Accounting Standards Board (FASB) regulations. The Foundation board has hired Elmore & Associates because of the firm's rigid adherence to the rules and their stringency in forcing compliance with federal and state law and I am proud to tell you that The University of Montana Foundation has always received an unqualified opinion from Elmore & Associates. Further evaluation by another set of auditors is an unnecessary expenditure that this state can ill afford.

Earlier I mentioned the Foundation's Board of Trustees. The UM Foundation board consists of 38 men and women, residents of Montana as well as other states, who oversee management--for the Foundation--of \$52 million on behalf of The University of Montana. These individuals come from small businesses, large corporations, private medical practice, community service, and private consulting on a host of subjects. They are diverse as this country is diverse. And just as this country listens to the views of the multitude--and as a class--is beholden to none, The University of Montana Foundation Board of Trustees acts as guardians of funds given voluntarily for the common good of The University of Montana and gives equal attention to the requisites of each donor. These men and women demand that my staff and I remain totally faithful to the interests of the donors and to assure that their interests are protected. If the trustees' rights of oversight were abrogated, I fear that we could not guarantee that gifts would always go--in entirety--to the purpose donors specify. On many occasions donors have said to me or my staff that one reason they made the gift was that we could assure it would reach the intended source--benefiting students. To protect the interests of donors and to assure that their hard-earned--but freely given--dollars did not fall into a general pool of funds that helped to pay the salary of a road maintenance worker instead of a scholarship for the valedictorian of Plentywood or Butte High School is our real reason for existence.

Another reason why the seven Montanans, who first formed The University of Montana Foundation in 1951, did so was to protect the anonymity of donors. Montanans are private people. A millionaire can live next to a couple of modest means. They are friends; they lend each other hedge clippers and neither knows--or asks--about the financial capabilities of the other. Unless they choose to invite others into their confidence, no one needs to know what philanthropic causes they value. They remain anonymous. The University of Montana vigorously protects that anonymity and I am adamant that we will always do so. Opening our records to public scrutiny jeopardizes our resolve to protect the privacy of donors to The University of Montana. We cannot allow HB193 to violate the trust Montanans place in The University of Montana Foundation.

We cannot allow HB193 to undermine the public trust that The University of Montana Foundation has spent 45 years to earn.

Ladies and gentlemen, this is a case of 'let's not fix something that isn't broken.' The non-profit foundations of The University of Montana and other units of the Montana University System are facilitating an influx of millions of private dollars into the universities and colleges of this state.

We operate efficiently and we will continue to do so.

Let us do our job.

Defeat this bill.



# THE MONTANA UNIVERSITY SYSTEM

2500 BROADWAY - PO BOX 203101

HELENA, MONTANA 59620-3101

(406) 444-6570 FAX (406) 444-1469

lschramm@oche.montana.edu

EXHIBIT 11  
DATE 1-17-97  
HB 193

COMMISSIONER OF HIGHER EDUCATION

OFFICE OF LEGAL COUNSEL

**TO:** House State Administration Committee

**FROM:** LeRoy H. Schramm  
Chief Legal Counsel *LS*

**RE:** HB 193

**DATE:** January 17, 1997

The title of HB 193 says its goal is "clarifying the authority of the legislative auditor to access certain transactions between public entities and private foundations." But the bill does not "clarify" anything. Rather, it extends the authority of the state government to look at the private records of hundreds of private individuals and organizations as well as private foundations. State law already gives the legislative auditor "the authority to audit records of organizations and individuals receiving grants from . . . the state to determine that the grants are administered in accordance with the grant terms and conditions." 1-13-304, MCA. Another section of state statute already says that no state agency may "contract with a nonstate entity unless the contract contains a provision that allows the legislative auditor sufficient access to the records of the nonstate entity to determine whether the parties have complied with the terms of the contract." 18-1-118, MCA. This bill amends these sections by giving the legislative auditor the authority to audit the records, not just of grant recipients or contractors with the state, but of all "organizations and individuals receiving grants funds or property from . . . the state" and to audit the records of any private individual or entity with whom the state has "an agreement to grant provide resources under its control . . .". The new language is clearly more expansive than existing statute. This amended section would open up the records of anyone who receives any kind of payment from a state agency or anyone who rents or leases state equipment, land or property of any sort. This is an enormous number of people who are newly brought under the eye of the auditor, even though it is not clear that the interests of the state are not fully protected by existing statute.

Section 2 of the bill amends the existing section of statute that gives the legislative auditor "access to the records of the nonstate entity" that contracts with the state "to determine whether the parties have complied with the terms of the contract." This section already covers any foundation, university or otherwise, that contracts with the state because it covers **all** individuals and entities of whatever sort that contract with the state. But to this existing statute HB 193 adds the requirement that "money may not be transferred to a private foundation established for the support of a public entity unless the transfer . . . is subject to a biennial audit by or at the direction of the legislative auditor." The term "transfer" is not defined but the new language seems to say that anytime a private foundation rented or sold anything to a public entity in exchange for money or performed a service, such as conducting a study for which it was paid, the foundation would become subject to the state's biennial

MONTANA STATE UNIVERSITY — Campuses at Billings, Bozeman, Great Falls, and Havre

THE UNIVERSITY OF MONTANA — Campuses at Butte, Dillon, Helena, and Missoula

Dawson Community College (Glendive) — Flathead Valley Community College (Kalispell) — Miles Community College (Miles City)

audit. As drafted, the statute covers hundreds of private foundations which support public entities with at least part of their funds. Because the term "private foundation" is a legal term of art defined by both state and federal law (see 35-2-127, MCA, and Sec. 509 of the federal IRS code) that meaning would be applicable to HB 193. Ironically, as drafted, HB 193 would cover almost all charitable foundations established by an individual or a family but would not cover any of the foundations formed to support the units of the Montana University System. I will assume for the purpose of this memo that this does not express the intent of the sponsor. Rather, I will assume that his intent is to subject university foundations and like entities to the mandates of the bill. If so, the bill would cover a multitude of various charitable organizations formed to help all sorts of public entities. The state is replete with organizations with names like The Friends of XYZ Public Library or Friends of XYZ County Animal Shelter or XYZ Boosters Club. (See Appendix for a sampling of the groups covered by this bill.) Many, if not all, of these organizations are charitable or educational organizations authorized by Sec. 501 of the IRS code and are legally indistinguishable from the university foundations. Every time such a group sold or rented something to its targeted public entity, even if at a bargain rate, the group would become subject to a "biennial audit by or at the direction of the legislative auditor."

These groups are already heavily regulated by federal law. The IRS code strictly limits the use of their funds to charitable or educational uses. Groups like the university foundation are already paying for yearly private audits to assure compliance with federal tax laws. In addition, such organizations each year file Form 990 with the IRS listing basic financial data, which form is available to the public. State statute already governs any transfer of assets between a university system unit and its foundation. 20-25-308, MCA, says that ownership of any "money" or "real or personal property" "may not be transferred to a nonprofit corporation or foundation established for the benefit of a unit of the university system **unless full market value is received for the transfer . . .**"

It is not clear what accounting standards would be used to audit these organizations. They are not required by either state or federal law to follow the usual standards which guide the legislative auditor; those promulgated by the Governmental Accounting Standards Board. And if the legislative auditor merely applies the more widely used standards promulgated by the Financial Accounting Standards Board, he is merely duplicating at a very significant additional cost the audits already being privately done on the foundation records.

This bill doesn't automatically mean that such things as donor lists and trust agreements between the foundations and donors become available to the public, but once such records are placed in the hands of the legislative auditor the foundation can no longer assure donors of either confidentiality or anonymity. The inability to give such assurances will almost certainly have a chilling effect on some donors.

Finally, the thrust of this bill is to move the covered foundations one step closer to being viewed as public agencies in the eyes of the law. Donors give to these private organizations because they do not want their donations controlled by governmental officials or politicians. They could get the same tax deduction by giving a gift directly to a public entity, but they choose to give it to the private foundation instead. This bill breaks down the wall between the public entity and the supporting foundation and by doing so removes some of the insulation that motivated the donor to make the gift in the first place. While it may be too strong to say that this bill would kill the goose that laid the golden egg, it certainly will give the goose a fever.

### **Appendix**

#### **Sampling of Organizations Covered by HB 193**

(Includes only those whose names begins with "Friends of ...")

Friends of Beaverhead County Fair, Inc.  
Friends of Glacier  
Friends of KEMC/KBMC  
Friends of KGLT, Inc.  
Friends of Mount Helena, Inc.  
Friends of Public Radio  
Friends of the Arlee School  
Friends of the Butte-Silver Bow Public Library, Inc.  
Friends of the Flathead Lake Biological Station, Inc.  
Friends of the Hamilton Schools Foundation, Inc.  
Friends of the Hot Springs City Library, Inc.  
Friends of the Liberty County Library, Inc.  
Friends of the Library of St. Ignatius, Inc.  
Friends of the Library of The University of Montana  
Friends of the Madison Valley Public Library  
Friends of the Miles City Public Library, Ltd.  
Friends of the Missoula Public Library, Inc.  
Friends of the North Valley Public Library  
Friends of the Roosevelt County Library  
"Friends of the Shelter" Tobacco Valley Animal Shelter, Inc.  
Friends of the Sheridan Public Library  
Friends of the Stevensville Public Library



## TESTIMONY IN SUPPORT OF HOUSE BILL NO. 89 (HB 89)

Submitted by Lois Menzies, Director  
Department of Administration  
January 17, 1997

EXHIBIT 12  
DATE 1-17-97  
HB 193

The Department of Administration was heavily involved in the work of the Joint Interim Subcommittee on State Management Systems because we operate the centralized, automated management information systems that were the focus of the Committee's study. These core systems are used to collect, track, and report information on the state's finances, personnel, and property. State Government is dependent on these systems to manage the information that agencies need to conduct their business. In addition to operating these major information systems, the Department of Administration provides an array of information technology services to state agencies. The technological architecture needed to operate our major information systems is provided through ISD.

One of the recommendations of the interim study committee was for the Department of Administration to hire a consultant to assess our current management information systems and to make recommendations on how these systems could be better automated and integrated. With this recommendation in mind, the Department formed an interagency steering committee that selected a consultant to examine our core systems. We called this effort **MT PRIME** (Montana's Project to Reengineer the Information Management Environment). The consultant's study indicated that our financial, personnel, and property asset management systems are becoming tired and worn. Quite simply, these systems, which were built 15-20 years ago, are no longer meeting the needs of state government for more, better, and faster information. As a result, agencies are moving away from the core, centralized systems and building agency-specific systems to meet their needs.

This session, the Department is asking the Legislature's permission to continue our work on MT PRIME. We are seeking approval to replace our existing systems with an integrated, commercial software package for financial, human resources, and asset management. This project is part of the Governor's \$55 million information technology bond proposal. If the legislature approves funding for MT PRIME, the oversight committee proposed in this bill will track the progress of this major project. Additionally, the committee will oversee the use of information technology in state government.

(OVER, PLEASE)

MONTANA SENATE  
1997 LEGISLATURE  
STATE ADMINISTRATION COMMITTEE

## ROLL CALL

DATE 3-14-97

[illegible]



## SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 15, 1997

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill 193 (third reading copy -- blue), respectfully report that House Bill 193 be amended as follows and as so amended be concurred in.

Signed: Don Hargrove  
Senator Don Hargrove, Chair

That such amendments read:

1. Title, line 8.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

2. Page 2.

Following: line 22

Insert: "NEW SECTION. Section 4. Termination. [This act]  
terminates July 1, 2001."

-END-

SD Amd. Coord.  
Sec. of Senate

Sen. Keating  
Senator Carrying Bill

570736SC.SRF

1-17-97

## ROLL CALL

House State Administration

| NAME                       | PRESENT | ABSENT | EXCUSED |
|----------------------------|---------|--------|---------|
| Rep. Matt Brainard         | X       |        |         |
| Rep. Harriet Hayne         | X       |        |         |
| Rep. Darrel Adams          | X       |        |         |
| Rep. Haley Beaudry         | X       |        |         |
| Rep. William Rehbein, Jr.  | X       |        |         |
| Rep. Sam Kitzenberg        | X       |        |         |
| Rep. Allan Walters         | X       |        |         |
| Rep. Norm Mills            | X       |        |         |
| Rep. Tim Dowell            | X       |        |         |
| Rep. Doug Mood             | X       |        |         |
| Rep. Trudi Schmidt         | X       |        |         |
| Rep. Bill Whitehead        | X       |        |         |
| Rep. George Heavy Runner   | X       |        |         |
| Rep. Dorothy C. Simpson    | X       |        |         |
| Rep. Antoinette R. Hagener | X       |        |         |
| Rep. Matt Denny            | X       |        |         |

# VISITOR REGISTER

## HOUSE STATE ADMINISTRATION COMMITTEE

DATE: 1-19-97

BILL NO: HB 193 SPONSOR: S. Hanson

| NAME AND ADDRESS<br>(PLEASE PRINT) | REPRESENTING                   | TYPE OF WITNESS    |         |        |
|------------------------------------|--------------------------------|--------------------|---------|--------|
|                                    |                                | Informa-<br>tional | Support | Oppose |
| TORI HUNTHAUSEN                    | LAD                            | X                  |         |        |
| Steve Browning                     | Montana Community Foundation   | X                  |         |        |
| VANCY DAVIDSON                     | UNIV. OF MONT. FDN.            |                    |         | ✓      |
| Russ Rittel                        | Wash Fdn                       | X                  |         |        |
| John H Morrison Jr                 | Montana State Univ. Foundation |                    |         | X      |
|                                    |                                |                    |         |        |
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Please leave prepared testimony with secretary.

Witness statement forms are available if you care to submit written testimony.

EXECUTIVE ACTION ON HB 193

Motion: REP. BRAINARD MOVED DO PASS ON HB 193.

{Tape: 1; Side: b; Approx. Time Count: 42.9; Comments: None.}

Amendments: REP. BRAINARD MOVED TO AMEND/ Motion carried 15-0.  
EXHIBIT 8.

{Tape: 2; Side: a; Approx. Time Count: .01; Comments: None.}

Motion: REP. BRAINARD MOVED DO PASS AS AMENDED

{Tape: 2; Side: a; Approx. Time Count: 1.5; Comments: None.}

Vote: Motion carried 12-3. Rep. Dowell, Rep. Hagener, Rep. Simpson voted no.

{Tape: 2; Side: a; Approx. Time Count: 4.1; Comments: None.}

EXECUTIVE ACTION ON SB 13

Motion: REP. REHBEIN MOVED BE CONCURRED IN SB 13.

{Tape: 2; Side: a; Approx. Time Count: 5.1; Comments: None.}

Motion/Vote: REP. KITZENBERG MOVED TO TABLE SB 13/ Motion denied 10-5. Rep. Dowell, Rep. Hagener, Rep. Heavy Runner, Rep. Kitzenberg, Rep. Simpson, and Rep. Whitehead voted yes.

{Tape: 2; Side: a; Approx. Time Count: 17.4; Comments: None.}

Amendments: REP. MILLS MOVED TO AMEND/ Motion carried 12-3. Rep. Denny, Rep. Mood, and Rep. Rehbein voted no. EXHIBIT 9.

{Tape: 2; Side: a; Approx. Time Count: 21.5; Comments: None.}

Amendments: REP. REHBEIN MOVED TO AMEND/ Motion denied 14-1. Rep. Rehbein voted yes.

{Tape: 2; Side: a; Approx. Time Count: 27; Comments: None.}

Motion/Vote: REP. BRAINARD MOVED BE CONCURRED IN AS AMENDED/ Motion carried 8-7. Rep. Denny, Rep. Dowell, Rep. Hagener, Rep. Heavy Runner, Rep. Kitzenberg, Rep. Schmidt, and Rep. Whitehead voted no.

{Tape: 2; Side: a; Approx. Time Count: 28.7; Comments: None.}

Amendments to House Bill No. 193  
First Reading Copy

Requested by Rep. Brainard  
For the Committee on House State Administration

Prepared by Sheri Heffelfinger  
January 28, 1997

1. Title, line 5.  
Following: "FOUNDATIONS"  
Insert: "OR ORGANIZATIONS SUPPORTING THE UNIVERSITY SYSTEM"
2. Page 2, line 12.  
Strike: "Money"  
Insert: "Public money or public property"  
Following: "foundation"  
Insert: "or organization"  
Following: "the"  
Insert: "promotion,"  
Following: "support"  
Insert: ", or encouragement"  
Strike: "a public"
3. Page 2, line 13.  
Strike: "entity"  
Insert: "the university system"
4. Page 2, line 14.  
Strike: "allows"  
Insert: "provides"  
Following: "foundation"  
Insert: "or organization"
5. Page 2, line 16.  
Strike: "is" through "of"  
Insert: "provides"  
Following: "auditor"  
Insert: "with annual financial reports that include audited  
financial statements"

Note: The new subsection (2) on page 2 will read:

(2) Public money or public property may not be transferred to a private foundation or organization established for the promotion, support, or encouragement of the university system unless the transfer:

(a) provides the legislative auditor sufficient access to records of the private foundation or organization to allow compliance with Article VIII, section 12, and Article X, section 9(2)(d), of the Montana constitution; and

(b) provides the legislative auditor with annual financial reports that include audited financial statements.





## HOUSE STANDING COMMITTEE REPORT

January 28, 1997

Page 1 of 2

Mr. Speaker: We, the committee on State Administration report that **House Bill 193** (first reading copy -- white) do pass as amended.

Signed: \_\_\_\_\_

*Matt Denny*  
Matt Denny, Chair

And, that such amendments read:

1. Title, line 5.

Following: "FOUNDATIONS"

Insert: "OR ORGANIZATIONS SUPPORTING THE UNIVERSITY SYSTEM"

2. Page 2, line 12.

Strike: "Money"

Insert: "Public money or public property"

Following: "foundation"

Insert: "or organization"

Following: "the"

Insert: "promotion,"

Following: "support"

Insert: ", or encouragement"

Strike: "a public"

3. Page 2, line 13.

Strike: "entity"

Insert: "the university system"

4. Page 2, line 14.

Strike: "allows"

Insert: "provides"

Following: "foundation"

Insert: "or organization"

Committee Vote:

Yes 12, No 3.

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8  
1:20  
1-29-97

5. Page 2, line 16.

Strike: "is" through "of"

Insert: "provides"

Following: "auditor"

Insert: "with annual financial reports that include audited  
financial statements"

-END-

## **MINUTES**

### **MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **CHAIRMAN DON HARGROVE**, on March 6, 1997, at 10:00 A.M., in Room 331.

#### **ROLL CALL**

**Members Present:**

Sen. Don Hargrove, Chairman (R)  
Sen. Kenneth "Ken" Mesaros, Vice Chairman (R)  
Sen. Vivian M. Brooke (D)  
Sen. Delwyn Gage (R)  
Sen. Bill Wilson (D)

**Members Excused:** Sen. Fred Thomas (R)

**Members Absent:** None

**Staff Present:** David Niss, Legislative Services Division  
Mary Morris, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 193, 2/24; HB 227, 2/24;  
HB 199 2/24  
Executive Action: HB 74 BCI; HB 42 BCI;  
HB 134 BCIAA; HB 227 BCI;  
HB 199 BCIAA

#### **HEARING ON HB 193**

**Sponsor:** REP. SONNY HANSON, HD 1, presented HB 193.

**Proponents:** None

**Opponents:** Richard Crofts, Commissioner of Higher Education  
Larry Moreland, University of Montana Foundation  
George Dennison, University of Montana  
Mike Malone, Montana State University- Bozeman  
Leroy Schramm, Montana Board of Regents  
Bob Bashini, self  
June McCray, MSU Student Body  
Jeremy Fraz, ASMSU Student Body

**Opening Statement by Sponsor:**

**REP. SONNY HANSON** presented HB 193. He said the bill would clarify the authority of the Legislative Auditor to assess certain transactions between public entities and private foundations or organizations who support the University System. He pointed out the changes in the bill that would include funds and property transactions in the audits. The audit is further defined to insure that the items are administered in accordance with any restricted terms and conditions of the transfer. Funds under the control of the Board of Regents are subject to the same audit provisions. Money received by the University System would be accountable and recorded by the University System before it is transferred to the foundations. He emphasized there was no interest in monies received from the private sector. This was only public money. The records had to be available to show that transfer. *{Tape: 1; Side: A; Approx. Time Count: 2.3-; Comments: he discussed the strict accountability of revenue received by governmental entities.}*

**Proponents' Testimony: None****Opponents' Testimony:**

**Richard Crofts, Commissioner of Higher Education**, discussed two areas of concern. He said there were fundamental reasons why the bill was unnecessary and has the potential of having bad results on the work of the foundations. He said there was uncertainty about what the bill really meant as far as what the bill would add that wasn't already taken care of or covered by existing statute. The foundations have agreed to make their annual reports and audits available. They already provide to the IRS a federal tax form 990 and that is public information. Every activity that the University System engages in, either with cash, property, or land of any sort, the details of transactions between the University System and any outside organization are already subject to full audit by the Legislative Auditor. The passage of the bill is unclear as to what additional information would be required. Most importantly, what additional access would state officials have to the records of private organizations including the foundations. This leads to the second concern which is the unintended consequences. This would be the negative impact on the ability of the foundations to raise money on behalf of the campuses. He discussed what the foundations do and the people that give money to the foundations. The foundations are important as they raise millions of dollars to provide services and programs and especially financial support to students that would not be otherwise available. The concern is the degree of access to records of private organization. Donors choose to give money to the foundations and want their contributions to be confidential. Once a record becomes a part of the public record through the Legislative Auditor it is highly questionable to whether that record can be held confidential. Donors are concerned that their money goes exactly to the purpose

that they have identified. They want to be sure that a university official or a state appropriations body doesn't take money away. They do not want their donations to replace budget dollars but rather to supplement them. *{Tape: 1; Side: A; Approx. Time Count: 11.4 (10:26); Comments: spoke in opposition.}*

**Larry Moreland, Director, University of Montana Foundation**, spoke in opposition to the HB 193 presented testimony from **Nancy Davidson EXHIBIT 1**. He commented that they are well regulated and aware of the rules on the transfers of property and transfers of checks between the universities and the foundation and make sure they are well accounted for. A yearly audit is performed with line item information available relative to any public monies. There is basically only one source of public money which is a contract covered by other state statutes. The foundation is a private corporation as well as a public foundation. **EXHIBIT 2** *{Tape: 1; Side: A; Approx. Time Count: 30.2.}*

**George Dennison, President, University of Montana**, agreed with a need for public accountability, however the foundations are critical. Raising funds for the university through the foundations is very important. For a long time the philosophy was to rely on the state for support and leave the private section to support private higher education. This no longer works today. Priorities were outlined and the campaign was initiated. The projects were not regular operations but projects that people could get excited about, such as scholarships, construction, program enhancement and faculty development. *{Tape: 1; Side: A; Approx. Time Count: 38.0 (10:21); Comments: spoke in opposition to the bill.}*

**Mike Malone, President, Montana State University-Bozeman. Dr. Malone** pointed out the importance of foundations. Tuition cannot be wholly relied on. The issue is not accountability since that is addressed on a yearly basis. Confidentiality is very important to some donors. *{Tape: 1; Side: A; Approx. Time Count: 47.0 (10:25); Comments: spoke in opposition.}*

**Leroy Schramm, Chief Legal Counsel, Montana Board of Regents, EXHIBIT 3.** **Dr. Schramm** noted that section 1 did not make any reference to foundations. That is the section that gives power to the Legislative Auditor. Right now in section 7 it says the Legislative Auditor has the power to audit records of organizations and individuals receiving grants from the state to make sure that the grant was lived up to. That is expanded so it now applies to organizations and individuals receiving funds or property from the state. This is an enormous broadening of that section. He said this could include people receiving unemployment benefits, AFDC benefits, water or mineral, grazing leases. This gives the auditor some access to their records and the purpose of that is unclear. The bill appears to single out foundations. Donors will not give willingly or generously to the foundations if they think there is even a possibility that their will is going to show up or some detail of their financial status

would show up in the newspaper. *{Tape: 1; Side: A; Approx. Time Count: 55.8-71.5 (10:28); Comments: opposition to the bill.}*

Bob Bashini, formerly of the MSU Northern Board said the boards and foundation abide by all the laws of the state and federal. He spoke against the bill. This bill would shrink up the donations given to the foundations. Confidentiality is very important. *{Tape: 1; Side: A; Approx. Time Count: 72.5 (10:37); Comments: opposition to the bill.}*

Questions From Committee Members and Responses:

SEN. BROOKE asked Dr. Schramm about the public money or property being transferred to a private foundation. *{Tape: 1; Side: A; Approx. Time Count: 77.4 (10:39).}* Dr. Schramm replied that most of the foundations have receipt of public funds or property, such as rent property from the campuses or sometimes perform services for the campus for which the campus pays. The ambiguity of the bill would have the unintended result of having confidential records become public. If the intent was for the auditor to have access to documents that were directly relevant to the contract between the state and the foundation, this is already done. This bill has to mean something more, he stated.

*{Tape: 1; Side: B; Approx. Time Count: 12.3 (10:44).}* SEN. BROOKE asked whether there was concern about the scholarship funds. Dr. Schramm replied that the concern was where the access of the Legislative Auditor precisely stopped since it was not well defined. SEN. MESAROS asked for clarification of current practices. REP. HANSON replied that money from the private sector going to a private foundation has nothing to do with this bill. This only addresses money received from the University System that is given to the Foundation which should be accountable. He cited an example about an audit performed at Montana Tech, February 1995. Unrecorded donations activity, money that had been willed to the college, not the Foundation, based on review of the will, the college was the intended beneficiary. The asset had not been recorded on the College accounting records. The Foundation had received money from the estate. The auditor should be able to review and find out what happened to that money. There is no access to the records by the Legislative Auditor.

SEN. MESAROS asked Dr. Crofts about assurances this would not happen if this legislation was not in place. Dr. Crofts replied that it was clear that the University System was committed to appropriate performance. He felt the information presented had been the result of an audit process which proves there was already sufficient access to raise the issue and have it become an audit finding and have it tracked in the record. He asked what was the point of requiring it a second time in the law. *{Tape: 1; Side: B; Approx. Time Count: 24.6 (10:50).}* He noted the concern about the perception that donors will have that now the Legislative Auditor is up to something different than they

had done in the past. There is nothing added by this bill that is not already covered in statute.

**SEN. GAGE** asked **Dr. Schramm** about outside discussions with the sponsor of the bill. **Dr. Schramm** replied that he had not discussed it. He said the concern was what kind of information could the Legislative Auditor access that they can't access now. **SEN. GAGE** asked about the public vs. private foundation and whether any of the colleges dealt with private foundations. **Mr. Moreland** replied there were donations received from private foundations. Proposals and donations are solicited from private foundations, for example the Dennis and Phyllis Washington Foundation. **SEN. GAGE** asked about the increases in the real property from a half million in '95 to over five million in '96. **Mr. Moreland** replied in that case it was a public donation that was made, specifically the Salmon Island Property.

**CHAIRMAN HARGROVE** asked if the bill would allow the auditor to get into the financial records of a private donor to the foundation. **Dr. Schramm** replied only if it was part of the gifting process when the Foundation had come into possession of those records. **CHAIRMAN HARGROVE** asked the sponsor whether the auditor could keep a secret. **Rep. Hanson** replied yes, by their ethics they could not reveal certain information. However, the only money the bill was addressing was public monies. For example, the Montana Tech money, the \$675,000, they just wanted to know what happened to the money and they can't find out because they can't go into the Foundation records. {Tape: 1; Side: B; Approx. Time Count: 39.4.}

**CHAIRMAN HARGROVE** asked **Dr. Dennison** if part of the funds were occasionally used for building and if the long term maintenance costs used private funds. **Dr. Dennison** replied they did, for example the Davidson's family donation to build the Davidson Honor College. The university assumes the responsibility to maintain it, the state does not provide the funds for it. In the event of joint participation, such as the Gallagher Building, it was clear with the Long Range Building Committee that it was hoped the state would pick that up, however the state has the option of picking up only a portion.

**CHAIRMAN HARGROVE** asked **Dr. Crofts** about records in the Foundation that were not available to the public. **Dr. Crofts** replied yes, it was principally donors but these organizations were private and there is no more legitimate access to their records than any other private individual organizations records. When the University System transfers money or property, makes a contract, enters into a lease arrangement, then those records are legitimately available.

**Dr. Dennison** commented about the audit issues. {Tape: 1; Side: B; Approx. Time Count: 45.2.} The auditor does find it since it part of the audit. In the event that the auditor arrives at the conclusion that it should be appropriately on the university

record as opposed to the Foundation record then it is part of the audit finding. The university has to defend that before the audit committee. If the audit committee disagrees, such as the case of Montana Tech, and there is no legitimate reason that you cannot show by the intent of the donor that it was to be to the Foundation then it is transferred back.

SEN. GAGE asked if the bill would pass would it be a stimulus enough for foundations to be formed, one that would not take any public funds or public property and the other which would. Dr. Dennison replied that would potentially be the outcome that foundations would no longer accept them. The foundation is simply the administrator and there has to be an audit trail to determine that it was administered appropriately.

Closing by Sponsor:

REP. SONNY HANSON closed. He pointed out that the Dennis Washington Foundation was mentioned and they oppose this bill since there was not a sufficient amount of definition dealing with public monies. Therefore, the bill was modified in the House to say that only public money coming from the universities. {Tape: 1; Side: B; Approx. Time Count: 53.4 (11:07).} The IRS has rules that cover private foundations. He read some policy from the Board of Regents Policy and Procedures Manual, page 901.1, effective July 8, 1993, regarding cash donations, documentation and forwarded to a separately incorporated foundation for investment or endowment management. However, the university must maintain assets on a statewide budgeting and accounting system of records. The bill is strictly a bill of accountability and allows additional access by the Legislative Auditor to find out more information. It is not talking about access to private contributions to the Foundation.

HEARING ON HB 199

Sponsor: REP. DICK KNOX, HD 93

Proponents: SEN. DEL GAGE, SD 43

Opponents: None

Opening Statement by Sponsor:

REP. DICK KNOX said the bill arises out of a concern over the rule making process, a bill may not have the same intent it started with. When the rule making process starts, the sponsor of the bill would be notified and the sponsor could be involved in that process. {Tape: 1; Side: B; Approx. Time Count: 65.2 (11:11).}



other purposes. Mr. Niss stated that is correct, unless there is a specific statutory exemption.

#### EXECUTIVE ACTION ON HB 534

##### Discussion:

Mr. Niss explained the amendment by Kelly Jenkins is probably unnecessary, but would do no harm.

SEN. BROOKE asked Mr. Niss if the bill, in its current form, does what it needs to do in regards to contracts. Mr. Niss stated he thought it did, pursuant to Title 18.

*{Tape: 1; Side: B; Approx. Time: 9:59 a.m.; Comments: The Committee recessed for 5 minutes.}*

Mr. Niss finished answering SEN. BROOKE's question. He said all other types of contracts would be governed by Title 18, which is the public contract title, whether it be purchase of the service, or the purchase of the item.

Motion: SEN. MESAROS moved HB 534 BE CONCURRED IN.

##### Discussion:

SEN. BROOKE pointed out that Mr. Gianoulias said there was a conflict about the rate of interest. Mr. Niss stated that was correct.

Motion: SEN. MESAROS withdrew his motion.

SEN. GAGE asked if it was a negotiated settlement, as opposed to a judgment, would HB 534 apply. Mr. Niss stated that it would.

#### COMMITTEE DISCUSSION - HB 394

CHAIRMAN HARGROVE reported that he met with REP. LARRY GRINDE, some the university officials and the board of regents, and they are still working out the details. He said REP. GRINDE's main concern was departments using taxpayer resources to pass legislation. CHAIRMAN HARGROVE stated that it would be difficult to "get a handle on", and the idea was an excellent one.

*{Tape: 1; Side: B; Approx. Time: 10:08 a.m.; Comments: None.}*

#### EXECUTIVE ACTION ON HB 193

##### Discussion:

SEN. THOMAS stated HB 193 has not passed out of committee due to a tie vote.



DATE 3-6-97

SENATE COMMITTEE ON State Administration

BILLS BEING HEARD TODAY: HB 193 HB 199  
HB 227

< ■ > PLEASE PRINT < ■ >

Check One

| Name              | Representing     | Bill No. | Support | Oppose |
|-------------------|------------------|----------|---------|--------|
| Bonnie Ramsey     | Clerk & Recorder | 227      | X       |        |
| R. Kinbrick       | U of M           |          |         |        |
| Geo Schunk        | AG               | 193      |         |        |
| Robert L. Rossell | NIT ASSOC. CLERK | 227      | X       |        |
| Bob Perkins       | Self             | H 193    |         | ✓      |
| Angela Jull       | Sec. of State    | H 227    | X       |        |
| Jim McCray        | NSU Student body | 193      |         | X      |
| Jeremy Fritz      | ASMSU Students   | 193      |         | ✓      |
|                   |                  |          |         |        |
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### VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

SEN. THOMAS reminded the Committee that HB 193 deals with authority of the Legislative Auditor to access transactions between public entities and private foundations.

CHAIRMAN HARGROVE stated that all the members had to do was change their vote.

SEN. THOMAS said he visited with individuals who worked for the University System who said there was no wrong-doing, but that there is no reason the public could not have access to the knowledge. He said another individual said there could be possible incidents where perks were being purchased with the foundation monies.

CHAIRMAN HARGROVE stated he had a separate meeting with Marilyn Wessel and Leroy Schramm, and they agreed that HB 193 may dispel some of the distrust that recent transactions have caused, and it may even encourage donors.

SEN. WILSON said the only reason he voted against the bill was the possibility of scaring people from donating. SEN. WILSON asked SEN. THOMAS if he had resolved this issue. SEN. THOMAS said it was possible people may not want to donate because there was no public scrutiny of where the funds would go.

SEN. MESAROS followed up on the comments of SEN. THOMAS, outlining many of the issues legislators deal, one of which is "perception is reality". SEN. MESAROS stated that HB 193 would help alleviate the concern of many individuals.

CHAIRMAN HARGROVE indicated that donations are public knowledge and that what is of concern is what is given to the University was not known to the public.

SEN. WILSON stated there was a major effort to stop HB 193 and he commented that passage of the bill could end all donations. SEN. WILSON asked for a sunset to be placed on the bill.

Motion: SEN. WILSON moved to amend HB 193 by placing a sunset provision in the bill. (EXHIBIT 4)

Discussion:

SEN. GAGE stated it would be difficult to determine how the University lost money due to the passage of the bill.

CHAIRMAN HARGROVE said it would be the job of the Auditors to determine if HB 193 is aiding the University.

SEN. GAGE said what if they get a tremendous gift prior to passage of the bill, and get the same number of gifts in the years following passage of HB 193, but it does not add up to the large donation given prior to enactment of the bill.

SEN. BROOKE commented on the sunset provision, and said she felt it would help to determine whether HB 193 would be a harassing process or would be a workable process.

SEN. GAGE stated the University is audited now and. if there were leaks, it would happen now and not when passage of HB 193 is enacted.

Vote: The amendment CARRIED with SEN. GAGE OPPOSED.

Motion: SEN. THOMAS moved HB 193 BE CONCURRED IN AS AMENDED.

Discussion:

SEN. BROOKE reminded the Committee what happened in the University System in Missoula, and indicated that the "fall out" is still continuing. She said she is concerned about the amount of effort to kill HB 193 and felt that, with passage of the bill, some controversy may be put to rest.

SEN. THOMAS said he felt HB 193 is a very healthy approach to address the concerns of the public.

Vote: The motion CARRIED with SEN. WILSON and SEN. BROOKE OPPOSED. SEN. KEATING will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 568

Amendments: HB056801.and (EXHIBIT 5)

Motion/Vote: SEN. GAGE moved to amend HB 568. The motion CARRIED UNANIMOUSLY.

Motion/Vote: SEN. MESAROS moved HB 568 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY. SEN. MESAROS will carry the bill on the Senate floor.

{Tape: 1; Side: B; Approx. Time: 10:24 a.m.; Comments: None.}

EXECUTIVE ACTION ON HJR 6

Motion: SEN. BROOKE moved HJR 6 BE ADOPTED.

Discussion:

SEN. BROOKE commented on the difficulty women had being elected to the legislature and urged passage of the legislation.

SEN. WILSON asked about the span of years the plaque referenced in the testimony. SEN. WILSON said the years were from 1917 through 1995.